

LOCAL COURT RULES

ADMINISTRATIVE RULES

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**RULE 1.00 SCOPE AND EFFECTIVE DATE**

These rules are adopted as Local Rules of Court governing practice and procedure in the Bedford Municipal Court. They are adopted pursuant to the Court's inherent authority as set forth in the Rules of Civil and Criminal Procedure and Rules of Superintendence. These rules may be cited as "B.M.C. Rule ( )". They are effective as of January 12, 1996 ( as later amended) and shall govern all proceedings filed subsequent to that date.

**RULE 2.00 HOURS OF REGULAR OPERATION**

A. The offices of the court shall be open between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. These hours may be extended or diminished by court order.

**B. Subject to change, the offices of the court shall be closed for holidays as designated by court order. A copy of the court's annual holiday schedule is available upon request.**



## **RULE 3.00 THE JUDICIARY**

Magistrates shall be appointed by the presiding judge and will have all the authority and power set forth in the Rules of Procedure and Statutes. The magistrates will hear all matters referred to them by a judge of this court.

Acting judges shall be appointed pursuant to Section 1901.10 O.R.C. and shall serve at such times as the incumbent judge is temporarily absent or incapacitated.

### **RULE 3.01 ADMINISTRATIVE JUDGE – ACTING ADMINISTRATIVE JUDGE**

A. The administrative judge shall decide questions pertaining to cases assigned to a judge when that judge is unavailable and a delay would result in prejudice to the parties. The authority of the administrative judge shall extend only to those matters relating to docket and case control and the compilation, approval and transmission of such reports as may be periodically required under the Ohio Rules of Superintendence for the Courts of Ohio. Pursuant to the authority granted under the Ohio Rules of Superintendence for the Courts of Ohio, the administrative judge is relieved of such part of his or her trial duties as necessary to allow him or her to properly oversee the expedient management of the trial court's calendar and docket.

B. During any such time as the administrative judge shall be unavailable or absent, the presiding judge shall act in his or her capacity to perform the duties of the administrative judge.

### **RULE 3.02 PRESIDING JUDGE – ACTING PRESIDING JUDGE**

A. The presiding judge shall oversee all fiscal matters of the court including, but not limited to, the purchase of goods and services, the approval of travel, educational and other expenses, the preparation and presentation of the court's annual budget, and the review of the court's personnel needs. The presiding judge shall be responsible for surveying all recent improvements in judicial administration and, where appropriate, shall undertake such improvements as he or she may deem of value to this court.

**Enforcement of all administrative orders of the court, as well as the enforcement of compliance with these rules, shall be the responsibility of the presiding judge.**

B. During any such time as the presiding judge shall be unavailable or absent, the administrative judge shall act in his or her capacity to perform the duties of the presiding judge.

**RULE 3.03 SELECTION OF PRESIDING  
JUDGE/ADMINISTRATIVE  
JUDGE**

**Pursuant to Rule 4(A) of the Rules of Superintendence for the Courts of Ohio, the court shall annually elect one of its members as administrative judge, for a term of one year beginning in January. The administrative judge may be elected to consecutive terms and also may serve as presiding judge pursuant to Sup.R.3.**

Likewise, pursuant to Rule 3(A) of the Rules of Superintendence for the Courts of Ohio, the court shall annually elect one of its members as presiding judge, for a term of one year beginning in January. The presiding judge may be elected to consecutive terms and also may serve as administrative judge pursuant to Sup.R.4.

**RULE 3.04 MAGISTRATES**

**The magistrates of the court are empowered to hear and decide the following types of matters:**

1. Actions in forcible entry and detainer;
2. Preseizure hearing actions in replevin other than motions for immediate seizure;
3. Post judgment motions and judgment execution proceedings;
4. Small claims cases;
5. License suspension hearings and requests for occupational driving privileges;
6. Judgment debtor hearings and third party claims;
7. Designated enforcements of sentence;

8. Traffic proceedings in which a plea of guilty or no contest is entered or in which the defendant executes a written waiver of the right to trial by judge;
9. Default and proof of claim hearings;
10. Any other cause properly referred under the Ohio Civil, Criminal or Traffic Rules of Procedure and/or the Rules of Superintendence for the Courts of Ohio;
11. Trial of any case which will not be tried to a jury, or any jury trial wherein the parties have given unanimous written consent.

### **RULE 3.05 OBJECTIONS TO THE DECISION OF THE MAGISTRATE**

**A. Once the magistrate has conducted the trial or hearing of a particular matter, a magistrate's decision will be filed. The court may adopt a magistrate's decision and enter judgment without waiting for timely objections by the parties, but the filing of timely objections shall operate as an automatic stay of execution of that judgment until the court disposes of those objections and vacates, modifies or adheres to the judgment previously entered. The court may make an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. An interim order shall not be subject to the automatic stay caused by the filing of timely objections. An interim order shall not extend more than twenty-eight (28) days from the date of its entry unless, within that time and for good cause shown, the court extends the interim order for an additional twenty-eight (28) days. Any party objecting to the decision of the magistrate shall file such objections in accordance with Rule 53 of the Ohio Rules of Civil Procedure and pay the necessary costs.**

B. Within fourteen (14) days of the filing of a magistrate's decision, a party may file written objections to the magistrate's decision. If any party timely files objections, any other party may also file objections not later than ten (10) days after the first objections are filed. A copy of the objections shall be served upon all parties and proof of such service shall be contained in the objections. The court has no obligation or duty to serve the objections upon the opposing party, this is solely the responsibility of the filing party. Failure of service shall be grounds for dismissal of the objections.

C. Any party may file a response to the objections within ten (10) days from the date of the objections are filed with the Clerk of Court. A copy of the response to the objections shall be served upon all parties and proof of such service shall be contained in the response to the objections.

D. Findings of fact and conclusions of law need only be included in a magistrate's decision if specifically requested at the time of hearing or if by motion of either party within fourteen (14) days from the date the decision is journalized by the Clerk of Court. Either party, or both parties, may be ordered to prepare and produce suggested findings of fact and conclusions of law for the magistrate's review.

E. All objections to the magistrate's finding of fact must be in conformity with Rule 53 of the Ohio Rules of Civil Procedure which requires an accompanying transcript or affidavit of evidence submitted. The court may disregard any new evidence which was not submitted to the magistrate unless the objecting party demonstrates within the objections that with reasonable diligence he or she could not have discovered and produced the evidence for the magistrate's consideration at the time of the original hearing.

F. If the court finds merit in an objection to a magistrate's decision, the court shall do one of the following:

1. order a trial de novo before a magistrate;
2. order a trial de novo before a judge;
3. modify or amend the decision as justice may require;
4. enter such other order as justice may require.

If the court finds no merit in an objection, the court shall timely overrule the objection, and declare the original judgment to be in full force and effect.

### **RULE 3.06 APPEAL OF A MAGISTRATE'S ORDER**

A. Unless otherwise specified by the referring judge, a magistrate may enter pretrial orders as authorized by the Ohio Rules of Civil Procedure. Any orders issued by a magistrate shall be made in writing and included in the record.

B. Within ten (10) days after the issuance of an order by a magistrate, a party may appeal to the court from an order of the magistrate by filing a motion to set the order aside, stating, with particularity, the grounds for the objections. Upon consideration of the motion to set order aside, the judge may hear additional evidence and may affirm, reject, or modify the order of the magistrate.

### **RULE 4.00 CLERK OF COURT**

**The Clerk of Court shall maintain such dockets, books of record and indices as are required by law or practical necessity as public record, utilizing microfilm and computers for storage whenever possible.**

The Clerk of Court shall permit any person to make a copy of any papers filed, but original papers filed in any case shall not be removed from the office without prior authority of the Clerk.

Except for good cause shown, the Clerk of Court's office shall not be required to issue subpoenas, nor shall the bailiff be required to serve the same, unless requests are filed with the clerk at least five business days prior to the hearing date.

Officers or employees of this court shall not prepare or help to prepare any pleading, affidavit, entry or order in any civil matter, except as provided under Section 1925 of the Ohio Revised Code.



## **RULE 5.00 COURT COSTS/FILING FEES**

The schedule of filing fees in civil and criminal cases has been adopted by the court (Appendix A & B), and may be amended from time to time by court order. Copies of such schedules are available upon request.

## **RULE 6.00 FILING BY FACSIMILE TRANSMISSION**

The court provides for the filing of all pleadings and other papers by electronic transmission, through the Clerk of Court's office. All pleadings and other papers may be filed with the court by facsimile transmission to (440) 232-2510 subject to the following provisions:

1. A fax document will be accepted as original and the signature accepted as original consistent with Civil Rule 5(E). The original pleadings need not be filed.
2. The attorney or other parties must provide all required identification on the cover page of the transmission. Transmissions without such information may not be accepted for filing. A transmitted document shall not exceed more than ten (10) pages not including the cover page and must pertain to only one case.
3. The clerk shall notify the attorney or other parties if the transmitted document cannot be filed for any reason. All documents submitted will be considered filed only when the date/time has been stamped by the clerk and the document has been properly docket. Any filings sent electronically and received by the court after 4:30p.m. Eastern Time will be filed-stamped the next business day.

## **RULE 6.01 E-FILINGS**

**Reserved for future use.**

## **RULE 7.00 CONTINUANCES**

A. All motions for continuances, in either civil or criminal matters, shall be submitted to the court in writing at least seven (7) days prior to a scheduled hearing, and must contain a brief in support setting forth the reasons requiring the continuance. A continuance that has not been ruled on by the date of any hearing shall be considered to be denied.

B. When a continuance is sought for the reason that counsel is scheduled to appear in another case assigned for trial or hearing on the same date in another court in the state, the movant shall append to the motion a copy of the notice received from the other court, along with a copy of the notice received from this court. Motions for continuance sought due to a conflict in hearing or trial schedules shall be decided in accordance with Rule 41 of the Rules of Superintendence for the Courts of Ohio.

C. Motions for continuance, when submitted within the required seven (7) days, will be granted only upon the showing of good cause constituting extreme hardship, unforeseen circumstances, or other unavoidable conditions.

## **RULE 8.00 COURT REPORTER/RECORDING OF ALL PROCEEDINGS**

**A. All proceedings shall be recorded by audio or video taping at the court's discretion. If counsel or a party desires a court reporter then the counsel or party must make their own arrangements for the presence and payment of a court reporter, and shall file a written motion seeking to have their court reporter named as the official reporter for said hearing.**

B. Parties appealing a decision of the trial court shall file a praecipe advising the court what portion(s) of the record they wish transcribed. The court, once a fee is paid, will provide the requesting party with the transcribed portion of the proceeding. The transcript will be prepared by the court's own court reporter who will then certify the typewritten transcript or the party may make arrangements with anyone else of their choosing to prepare a typewritten transcript subject to certification by the court.

C. All audio tapes will be maintained on file for a period of one year. These tapes will be recycled and reused after one year unless there is an appeal pending.

## **RULE 9.00 COURT SECURITY**

The Bedford Municipal Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court.

Accordingly, appropriate levels of security should exist in the court to protect the integrity of court procedures, protect the rights of individuals before it, deter those who would take violent action against the court or litigants, sustain the proper decorum and dignity of the court, and assure that court facilities are secure for all those who visit and work there.

Therefore, pursuant to the Rules of Superintendence for the Courts of Ohio, the court establishes as follows:

A. The court has appointed a Local Security Advisory Committee, consisting of one representative from each of the following groups: judges, bailiffs, and the Clerk of Court.

B. The court has implemented a local Security Policy and Procedure Plan and this plan has addressed the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

C. The Local Court Security Advisory Committee has adopted a Security Operations Manual, which manual has established written directives for the purpose of ensuring security within the court while maintaining accessibility to the community.

This Rule became effective on July 1, 1995.

## **RULE 10.00 BAILIFFS**

A. In addition to the other duties assigned, the chief bailiff shall be in charge of court security and may be assisted by deputy bailiffs, as needed.

B. Court bailiffs may carry firearms while on duty if they have completed the requirements of O.R.C. Section 109.77(D); and, provided they qualify at least once a year with a police department within the court's jurisdiction and are approved for the carrying of a firearm by the Presiding Judge.

C. The bailiffs shall follow the written policies and guidelines established by the court in its Security Policy and Procedure Plan and Security Operations Manual.

## **RULE 11.00 WEAPONS IN COURT FACILITY**

A. Any weapons, except those carried by police officers, judges, prosecutors, their assistants or investigators, or bailiffs are strictly prohibited in the courtrooms.

1. All security officers assigned to court security shall be certified through the Ohio Peace Officers Training Council. These officers shall receive training on court security and weapon instruction in the court setting.
2. The Court reserves the right to search any person entering the courtroom area. Any person found carrying a weapon shall have the weapon immediately seized, and may then be detained, arrested, and prosecuted as appropriate.

B. Police officers are permitted to carry their weapons in the court area when they are acting within the scope of their employment as said officers.

1. Police officers appearing in court outside their scope of employment as police officers (i.e.: litigant in a civil trial, domestic violence matter) shall not be permitted to carry their weapon in the court area. They shall either secure their weapon in their vehicle, or check the weapon with the Bedford Police Department located on the first floor of the building.
2. Any officer who refuses to surrender his/her weapon will be denied access to the court area.

## **RULE 12. WITHDRAWAL OF COUNSEL**

Only attorneys of record shall be considered as representatives of any party in a case. Withdrawal of counsel shall be granted only upon a timely application, which has been served upon the party, prior to trial and with approval of the court. Upon allowance of withdrawal by the court, the withdrawing counsel shall serve copies of said journal entry upon the client together with a forwarding letter, a copy of which shall be made available at the court's request. It is the responsibility of the defendant to inform the court of new counsel immediately so that the case may proceed as scheduled.

## **RULE 13.00 PUBLIC USE OF COURTROOMS**

**A. Questions concerning the admission of persons to a courtroom shall be within the province of the judge to whom that courtroom is assigned, within the guidelines of public access to all court proceedings, and consistent with the dignity of the court.**

B. Public statement by the court, counsel, court personnel, and witnesses shall be regulated by the judge to whom the case is assigned, within the guidelines of public access to court proceedings, and the right of the parties to be free of improper publicity within areas protected by fundamental rights.

C. No recordings shall be made of any court proceeding without the approval of the judge conducting the proceeding. All such recordings shall conform to the guidelines in the Rules of Superintendence for the Courts of Ohio.

## **RULE 13.01 PERMISSION TO BROADCAST/RECORD PROCEEDINGS**

**A. Requests for permission to broadcast, record, photograph or televise in the courtroom shall be in writing to the Clerk of Court as far in advance as reasonably practical, but in no event later than one-half (1/2) hour prior to the courtroom session to be broadcast or photographed unless**

**otherwise permitted by the trial judge or magistrate. Request forms may be obtained from the Clerk of Court.**

B. The Clerk of Court shall immediately inform the trial judge or magistrate of any request to broadcast, record, photograph or televise proceedings. The judge or magistrate shall grant or deny the request in writing consistent with Canon 3 (B)(3) of the Code of Judicial Conduct, Rule 12 of the Rules of Superintendence for the Courts of Ohio, and this local rule. The written order shall be made a part of the record of proceedings.

### **RULE 13.02 EQUIPMENT AND PERSONNEL**

A. Arrangements shall be made between or among media for “pooling” equipment and personnel authorized by this rule to cover the court sessions. Such arrangements are to be made outside the courtroom and without imposing on the trial judge or court personnel resolution of any dispute as to the appropriate media “pool” representative or equipment authorized to cover a particular session.

B. Not more than one portable camera (television, video-tape or movie), operated by not more than one in-court camera person shall be permitted without permission of the trial judge.

C. Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without permission of the trial judge.

D. Not more than one audio system for radio broadcast purposes shall be permitted without permission of the trial judge.

E. If audio arrangements cannot be reasonably made in advance, the trial judge may permit one audio portable tape recorder at the bench which will be activated prior to the commencement of the courtroom session.

F. “Visible” audio portable tape recorders may not be used by the news media without prior permission of the trial judge.

### **RULE 13.03 LIGHT AND SOUND CRITERIA**

A. Only professional quality telephonic, photographic and audio equipment which does not produce distracting sound or light shall be employed to cover courtroom sessions. No motor driven cameras shall be permitted.

B. No artificial lighting device other than that normally used in the courtroom shall be employed, provided that if the normal lighting in the courtroom can be improved without becoming obtrusive, the trial judge may permit modification.

C. Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. Microphones shall be located only at the trial judge's bench, witness stand and jury rail. Microphones shall be visible, secured, but unobtrusive. If no technically suitable audio system exists in the courtroom, microphones and related wiring essential for all media purposes shall be unobtrusive and located in places designated by this local rule or the trial judge in advance of any session.

#### **RULE 13.04 LOCATION OF EQUIPMENT AND PERSONNEL**

A. One television camera shall be positioned on a tripod at a position designated by the trial judge and remain fixed in that position. This designated area shall provide reasonable access to coverage. Videotape recording equipment or other technical equipment which is not a component part of an in-court television or broadcasting unit shall be located in a room adjacent to or outside of the courtroom.

B. The television, broadcast and still camera operators shall position themselves in a location in the courtroom either standing or sitting and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, except to leave or enter the courtroom.

C. Television cameras, microphones and taping equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement of or after adjournment of the session (as determined by the trial judge's use of the gavel to commence or adjourn the session) or during a recess. Neither television film magazines, rolls or lenses, still camera film, nor audio portable tape cassettes shall be changed within a courtroom except during a recess.

#### **RULE 13.05 LIMITATIONS**

A. There shall be no audio pick-up or broadcast of conferences conducted in a courtroom between counsel and clients, co-counsel, or the trial judge and counsel.

**B. The trial judge shall prohibit broadcasting, recording, photographing or televising by any means, victims of sexual assaults, informants and undercover police officers. The trial judge shall retain discretion to limit or prohibit broadcasting, recording, photographing or televising upon objections of any juror, victim, witness or subject**

C. Proper courtroom decorum shall be maintained by all media pool participants.

D. All media representatives shall be properly attired in accordance with the decorum of the open court.

#### **RULE 13.05 REVOCATION OF PERMISSION**

**Upon the failure of any media representatives to comply with either the conditions prescribed by the trial judge, Canon 3(B)(3) of the Code of Judicial Conduct, the guidelines contained in the Rules of Superintendence for the Courts of Ohio or Bedford Municipal Court local rules, the trial judge may revoke the permission to broadcast, record, photograph or televise the trial of hearing in question.**

#### **RULE 14.00 GENERAL PROVISIONS**

A. In all instances where a party requests a copy of a time-stamped pleading or entry be returned by mail, a return self-addressed stamped envelope shall accompany the request.

B. Pleadings that do not conform to these local rules are subject to being rejected and returned to the filing party.



C. Costs associated with any filing are to be paid at the time of filing unless prior arrangements have been made with the clerk's office.

#### **RULE 14.01 DECORUM AND CONDUCT**

**A. Upon the opening of any court sessions, all persons in the courtroom shall stand. All persons in the courtroom shall conduct themselves with decorum and in such a manner so as not to interfere with or obstruct judicial activities or proceedings. All persons appearing before the court shall, as far as practicable, appear in appropriate dress. Failure to comply with this rule may result in appropriate sanction by the court, including but not limited to continuance of the matter before the court, dismissal of the matter before the court, or a charge for contempt of court.**

**B. No smoking, eating or drinking is permitted in the courtroom, nor shall anyone bring food or drink into the courtroom.**

**C. No person shall loiter or behave in an unseemly or disorderly manner in the courtroom or in any halls, entryway, or stairways, or otherwise interfere with or obstruct judicial activities or proceedings.**

**D. The court expects that counsel shall also abide by this rule, and shall further call this rule to the attention of clients and witnesses.**

E. All counsel appearing before the court shall be appropriately dressed in business attire.

## CRIMINAL/TRAFFIC DIVISION

- 15.00 Magistrates
- 16.00 Appearance of Persons Arrested/Not Arrested
- 17.00 Case Management - Criminal/Traffic
- 18.00 Jury Trials
- 19.00 Sentencing
- 20.00 Diversion
- 21.00 Probation
- 22.00 Dismissals
- 23.00 Notification to Victims of Crime
- 24.00 Traffic Violations Bureau
- 25.00 Special Proceedings Case Management

### **RULE 15. MAGISTRATES**

A. Notwithstanding any contrary provisions of these rules and subject to limitations that may be established by the court, a court may refer to a magistrate and, upon such a reference, a magistrate may preside over the following proceedings and issue the appropriate orders:

1. Initial appearances and preliminary hearings conducted pursuant to Crim. R.5;
2. Arraignments conducted pursuant to Crim. R. 10;
3. Proceedings at which a plea may be entered in accordance with Crim. R. 11. A magistrate may accept and enter not guilty pleas in felony cases, and guilty, not guilty, and no contest pleas in misdemeanor cases;
4. Pretrial conferences conducted pursuant to Crim. R. 17.1;
5. Proceedings to establish bail pursuant to Crim. R. 46;
6. Motions filed pursuant to Crim. R. 47 over which the magistrate has authority under these rules;
7. Bond forfeiture hearings;
8. Trial of any case which will not be tried to a jury, or any jury trial wherein the parties have given unanimous written consent;
9. Income tax arraignments.

B. Any orders issued by a magistrate shall be made in writing and included in the record.

C. Within ten (10) days after the issuance of an order by a magistrate a party may appeal to the court by filing a motion to set the order aside, stating the party's objections with particularity. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order unless the magistrate or the court grants a stay. The motion to set aside will be heard by the judge to whom the case is assigned. Upon consideration of the objections, the judge may hear additional evidence and may affirm, reject, or modify the order of the magistrate.

## **RULE 16.00 APPEARANCE OF PERSONS ARRESTED/NOT ARRESTED**

A. Persons who are summoned to appear for arraignment as defendants in a criminal misdemeanor case shall report to the court at the time designated on the summons. The court will post a docket of cases scheduled for hearing in a conspicuous location, listing all persons scheduled for hearing on that day and time, indicating the specific courtroom in which the hearing shall occur.

B. Persons charged with a criminal misdemeanor or felony offense, who are released on bail shall appear for arraignment at the time and place designated on their bond papers.

C. Persons arrested and held in custody for misdemeanor, traffic or felony offenses shall appear at the next regularly scheduled session for the specific charging community, or as soon as practical before the next regularly scheduled court session.

D. Persons charged with traffic, misdemeanor criminal offenses or felony offenses must be present at the arraignment and all subsequent appearances unless the requirement of an appearance has been waived by local rule or otherwise by the court.

E. At the court's discretion, misdemeanor arraignments, traffic arraignments or other court proceedings may be held by means of closed circuit video transmission from any correctional facility where a defendant is being held.

1. Video arraignments will be scheduled at a time mutually convenient to the court and the correctional facility.

2. Attorneys, retained or appointed, will be notified of the time scheduled for video arraignment, and may be present either at the court or at the correctional facility where the defendant is being held.

## **RULE 16.01 INITIAL APPEARANCE**

A. At arraignment the defendant, either on his or her own behalf or through counsel, may enter one of the following pleas:

1. guilty
2. not guilty
3. no contest
4. not guilty by reason of insanity

B. The defendant may, upon entry of a plea of “not guilty” or “not guilty by reason of insanity”, demand a jury trial (except in those instances where a minor misdemeanor has been charged). Also, upon a plea of “not guilty”, the court will inquire as to whether or not statutory provisions regarding speedy trial are to be waived.

C. Counsel shall be made available to those who the court determines are unable to retain representation on their own. Each criminal defendant desiring a court appointed attorney will be required to complete a financial disclosure form attesting to the current financial status of the individual as it pertains to the defendant’s ability to retain private counsel.

## **RULE 16.02 ARRAIGNMENT IN CASES CHARGING VIOLATION OF A TEMPORARY PROTECTIVE ORDER**

**A. Consistent with the provisions of Rule 36(B)(2) of the Rules of Superintendence for the Courts of Ohio, when a defendant with a pending charge of Domestic Violence, Menacing by Stalking, or Aggravated Trespass before this court is subsequently charged with a violation of a temporary protection order, the new case shall be assigned to the same judge who is assigned to hear the pending case of Domestic Violence, Menacing by Stalking or Aggravated Trespass.**

## **RULE 17.00 CASE MANAGEMENT – CRIMINAL/TRAFFIC**

A. All criminal cases except minor misdemeanors, wherein the defendant pleads not guilty, is represented by counsel, and waives the right to speedy trial at the initial appearance or in which the case is not otherwise disposed of, shall be immediately set for a pretrial conference. The notice of the pretrial conference date shall be provided to the defendant and/or counsel prior to leaving court.

B. The defendant and counsel shall be required to personally appear at the pre-trial conference unless expressly excused by court order. Failure of the defendant to appear may result in the issuance of a warrant for the defendant's arrest.

C. No cases will be scheduled for a second pretrial without the court's consent. In the event of (additional) pretrial(s), the magistrate shall note for the file that a pretrial was conducted and the reason for the additional pre-trial. All cases which are not disposed of at the conclusion of the pre-trial conference(s) shall be set for trial unless specifically indicated otherwise by the court.

D. It is the policy of the Bedford Municipal Court to encourage full and open discovery at pre-trial conference. Accordingly, it shall be the responsibility of the prosecuting attorney to secure through the appropriate police department all discovery contemplated by Rule 16 of the Ohio Rules of Criminal Procedure for inspection and review at pretrial by defense counsel.

E. All trials shall be scheduled before the court unless the defendant files a timely jury demand or otherwise is accorded a right to a jury pursuant to law.

## **RULE 17.01 MOTIONS**

A. All motions in criminal proceedings shall be made in accordance with Ohio Criminal Rule 12. All motions shall include a certificate of service attesting to service of said motion upon the prosecuting attorney. Motions will be supported by memoranda of law containing applicable statutory and case law citations. In motions to suppress, the grounds must be stated with particularity and the items of evidence in question shall be specified. Any motion which, by its nature, is capable of determination without hearing shall be ruled on without hearing. Any motions filed which are not in compliance with this rule may be summarily denied.

B. All motions not heard or decided prior to trial will be disposed of at time of trial.

C. No motion to suppress may be filed prior to such time as a pretrial conference has been held unless the Defendant has affirmatively waived a pretrial hearing.

## **RULE 17.02 SCHEDULING OF HEARINGS/BENCH TRIALS**

A. All criminal cases shall be heard only at the regularly-scheduled date and time. Defendants may appear for hearing or case disposition at other times only with prior leave of court.

B. In any case where a party or counsel anticipates that a motion hearing or bench trial will require in excess of one hour, it is the responsibility of the party or counsel to notify the court so that adequate time can be scheduled.

## **RULE 18.00 JURY TRIALS**

All jury trials shall be conducted in a manner consistent with the proceedings adopted in this court's Jury Use & Management Standards. Parties are reminded that jury costs will be assessed as court costs to any cases failing to be resolved prior to the scheduling of that case for jury trial and the summoning of a jury.

## **RULE 19.00 SENTENCING**

A. At any time prior to sentencing, the court may refer the defendant to the probation department for a pre-sentence investigation. Upon completion of a pre-sentence investigation, the probation department shall cause a pre-sentence report to be timely filed with the court. The pre-sentence report shall be made available for review by the prosecution and/or the defense prior to sentencing.

**B. Upon a finding of guilty, sentencing shall occur immediately unless otherwise permitted by the court. If jail time is imposed upon a finding of guilty, the defendant will be**

**taken into custody by the arresting authority unless otherwise permitted by the court.**

C. Whenever a fine is imposed upon a defendant in a criminal case, fines, monies for restitution and costs are expected to be paid immediately, unless otherwise permitted by the court. If the defendant is unable to make payment in full for all monies required, the defendant may, at the sole discretion of the sentencing judge, be referred to the court's payment officer to determine eligibility for a payment plan, and the terms of any such plan.

## **RULE 20.00 DIVERSION PROGRAM**

(Reserved)

## **RULE 21.00 PROBATION**

**A. Eligibility for probation will be determined by the court. Any defendant who is sentenced to probation shall see the court probation officer prior to leaving the building. If the probation officer is unavailable, the defendant shall contact the probation office immediately after leaving court to schedule an appointment.**

**B. The probation department shall provide general rules of probation to each defendant referred by a judge or magistrate. These rules shall be signed by the probation officer and the defendant. Failure of the defendant to agree to or comply with the rules of probation may be deemed a probation violation, and may result in the scheduling of a probation violation hearing before the judge.**

C. The probation department shall inform each defendant referred by a judge or magistrate of the specific terms of their probation. A determination by the probation department that a defendant has failed to comply with the terms of probation shall result in the scheduling of a probation violation hearing before a judge or magistrate, and may result in the imposition of the original sentence.

## **RULE 22.00 DISMISSALS**

A. When the prosecutor desires to dismiss a criminal charge he or she may proceed under Ohio Criminal Rule 48(A). Pursuant to this rule, the dismissal of a criminal charge by the state requires leave of court.

B. When the prosecutor desires to dismiss a criminal charge of domestic violence or menacing by stalking, the court will only consider the dismissal after having heard a statement in support of the dismissal made by the prosecuting attorney and the victim named in the complaint when available. In the alternative, if the victim named in the complaint was present during the pretrial of the case, and chooses not to be present at subsequent hearing, the victim's signature shall be obtained on the pretrial negotiation form, indicating the victim's approval of the intended disposition of the matter.

## **RULE 23.00 NOTIFICATION TO VICTIMS OF CRIME**

A. In cases involving a charge under O.R.C. Sections 2903.13, Assault; 2903.22, Menacing; 2919.25, Domestic Violence; 2921.04(A), Intimidation of Crime Victim or Witness; or a violation of any substantially equivalent municipal ordinance, it shall be the duty of the prosecutor to provide the alleged victim or a representative member of the alleged victim's family with the information required under O.R.C. Sections 2943.04(B)(1) or 2945.07(B)(1) upon his or her earliest contact with the alleged victim.

B. The prosecutor shall notify the court of the date of such notice at the time of sentencing. In cases which are disposed of by plea, trial, amendment to another charge, or which are requested to be dismissed, it shall be the duty of the prosecutor to advise the court at the time of disposition whether or not the alleged victim or his/her representative in such case, is present in the courtroom so that he or she may be given an opportunity to address the court.



## **RULE 24.00 TRAFFIC VIOLATIONS BUREAU**

A. Pursuant to the authority of Ohio Traffic Rule 13 and Ohio Criminal Rule 4.1, there is hereby established at the Bedford Municipal Court a traffic violations bureau and the Clerk of Court is hereby appointed as the violations clerk.

B. The purpose of the violations bureau shall be to accept appearances, waivers of trial, pleas of guilty, and payments of fines and costs for offenses within the authority of the violations bureau.

C. The violations bureau shall have authority to dispose of all traffic offenses and minor misdemeanor offenses except as follows:

- 1) Indictable offenses;
- 2) Offenses resulting in a serious accident;
- 3) Operation of a motor vehicle while Under the Influence of Intoxicating Liquor or Narcotic or Habit-Producing drug, or permitting another person, who is Under the Influence of Intoxicating Liquor or a Narcotic or Habit-Producing Drug to Operate a Motor Vehicle owned by the defendant or in his custody or control;
- 4) Reckless driving;
- 5) Leaving a scene of an accident;
- 6) Driving while Under Suspension or Revocation of Driver's License;
- 7) Driving without being licensed to drive;
- 8) Exceeding the speed limit by more than 20 miles per hour;
- 9) A third moving traffic offense within a twelve month period;
- 10) Failure to stop and remain standing still upon meeting or over-taking a School Bus stopped on the highway for the purpose of receiving or discharging a school child;
- 11) Any violation otherwise eligible for processing by the Traffic Violations Bureau in connection with which the officer, by reason of unusual circumstances, marked the notice as "**personal appearance required**";
- 12) Willfully eluding or fleeing a police officer;
- 13) Drag racing;
- 14) Any violation not specifically stated above as waiverable.

D. Any person charged with a moving violation shall produce proof of valid insurance in effect at the time of the alleged violation. Proof of insurance shall be produced at the defendant's initial court appearance.

E. The court hereby establishes and publishes a waiver schedule of fines and costs (Appendix B), for all offenses subject to the authority of the violation bureau. This schedule shall be distributed to all law enforcement agencies operating within the jurisdiction of the court and shall be displayed at the court.

F. A defendant charged with an offense which can be processed by a traffic violations bureau may, within seven (7) days after the date of issuance of the ticket:

1. Appear in person at the traffic violations bureau, sign a plea of guilty and waiver of trial provision of the ticket and pay the total amount of the fine and costs; or
2. Sign the guilty plea and waiver of trial provision of the ticket, and mail the ticket and a check or money order for the total amount of fines and costs to the traffic violations bureau. Any waiver mailed to the traffic violations bureau shall be accompanied by proof of valid insurance in effect at the time of the violation.

G. Remittance by mail of the fine and costs to the traffic violations bureau constitutes a guilty plea and a waiver of trial whether or not the guilty plea and waiver of trial provisions of the ticket are signed by the defendant.

## **RULE 25.00 SPECIAL PROCEEDINGS CASE MANAGEMENT**

**The purpose of this rule is to establish, pursuant to Rule 5 of the Rules for the Superintendence for the Courts of Ohio, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. Examples of special proceedings would include contempt hearings, preliminary hearings, extradition hearings and bond hearings.**

Cases that have time limits established by the Ohio Revised Code or the Ohio Rules of Criminal Procedure shall be set for hearing within those limits. All other special proceedings cases shall be set for hearing at the court's convenience within a reasonable time.

## CIVIL DIVISION

- 26.00 Duties of Counsel
- 27.00 Civil Case Management
- 28.00 Default Dismissal by Court
- 29.00 Default Judgment
- 30.00 Trial Briefs and Jury Instructions
- 31.00 Service By Publication
- 32.00 Judgment Entries – Notice to Parties & Counsel
- 33.00 Forcible Entry & Detainer Actions
- 34.00 Trusteeships
- 35.00 Special Proceedings Case Management

### **RULE 26.00 DUTIES OF COUNSEL**

A. Attorneys and not parties will designate their capacity as trial counsel on all documents in civil cases, and shall include their Supreme Court registration number, office address, zip code, and telephone number. Normally a law firm should not be designated as trial counsel, however, substitution of counsel within the same law firm at hearings is authorized.

B. Requests for continuances shall be filed in accordance with B.M.C. Rule 7.00. Any request for continuance filed which is not in compliance with this rule may be summary denied. When counsel requests a continuance for the reason that he or she is scheduled to appear in another case assigned for hearing on the same date in the same or another trial court, the case which was set for hearing first shall have priority. Criminal cases assigned for hearing shall have priority over civil cases. If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of such cases, the administrative judge may require the trial attorney to provide substitute trial counsel.

C. All motions in civil proceedings shall be made in accordance with Ohio Rules of Civil Procedure. All motions shall include a certificate of service attesting to service of said motion upon opposing counsel. Motions will be supported by Memoranda of Law containing applicable statutory and case law citations. Any Motion which, by its nature, is capable of determination without hearing shall be ruled on without hearing. Unless a request for hearing is displayed in the caption of a motion, no oral hearing will be allowed. Any Motions filed which are not in compliance with this rule may be summarily

denied. Unless otherwise provided in these rules or in the Ohio Rules of Civil Procedure, the failure of a party against whom a motion is made to file a brief in opposition within fourteen (14) days from the date of service of such motion may be construed by the court as an admission that the motion may be granted. Motions to extend the time for filing of briefs in opposition may be requested prior to the expiration of the fourteen (14) day period.

D. All motions not heard or decided prior to trial will be disposed of at time of trial.

E. Motions for summary judgment, unless otherwise ordered by the court, shall be heard on briefs and supporting documentation, authorized by Ohio Civil Rule 56(C) without oral hearing. Adverse parties shall serve and file opposing briefs and documentation within fourteen (14) days of the filing of the motion, and moving parties shall serve and file reply briefs within fourteen (14) days thereafter.

F. Motions for default judgment may be set for an evidentiary hearing to establish the truth of the averments in the complaint and to determine the amount of damages. Failure of movant to appear and present evidence at the scheduled motion hearing may result in the dismissal of plaintiff's complaint, without prejudice, for want of prosecution.

## **RULE 27.00 CASE MANAGEMENT PROGRAM.**

A. All contested civil cases, except forcible entry and detainer, replevin, and small claims, shall be set for a combined pre-trial and case management conference.

B. Counsel and parties must appear before the court at the pre-trial. Insurance adjusters may substitute for their insured if they have authority to settle the case on behalf of their insured. No appearances by telephone will be allowed unless specifically permitted by the judge or magistrate.

C. Counsel will be encouraged at the pre-trial by the judge or magistrate to review the possibility of settlement, to simplify and narrow the issues for trial, to reach stipulations of fact not in controversy, to shorten the time and expense of trial and to consider such other matters as may aid in the disposition of the case, including any appropriate and available alternative dispute resolution programs.

D. Counsel should be prepared at the pre-trial to enter into a joint pre-trial statement and binding case management schedule setting forth the possibility or probability of settlement, facts which can be stipulated and those remaining in contention, special legal issues, if any, and a timetable for the amendment of pleadings, the filing of motions, the exchange of expert witness reports and medical and hospital records, the termination of discovery, and the trial of the action. Such statement and hearing schedule shall thereafter be adopted as an order by the court.

E. At the time of the pre-trial, the judge or magistrate may consider other appropriate pre-trial matters in accordance with Ohio Civil Rule 16, including the imposition of sanctions as authorized by Ohio Civil Rule 37 and such other matters as may aid in the disposition of the case.

F. If heard by a magistrate, the magistrate may enter orders without judicial approval in pre-trial proceedings under Ohio Civil Rule 16. Any person may appeal to the court from an order of a magistrate entered under Ohio Civil Rule 53(C)(3)(a) by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed no later than ten (10) days after the magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order unless the magistrate or the court grants a stay.

## **RULE 27.01 TRIALS**

A. All trials shall be scheduled before the court unless a party to the action files a timely jury demand or otherwise is accorded a right to a jury pursuant to law.

B. All jury trials shall be conducted in a manner consistent with the proceedings adopted in this court's Jury Use & Management Standards. Parties are reminded that jury costs will be assessed as court costs to any cases failing to be resolved prior to the scheduling of that case for jury trial and the summoning of a jury.

C. All jury demands shall be filed no later than ten (10) days prior to any scheduled trial date.

## **RULE 27.02 SETTLEMENT OR VOLUNTARY DISMISSAL**

A. In cases of settlement or voluntary dismissal, the court will accept notice of same by telephone call from the party pursuing each claim. An entry

must be submitted by the appropriate party within ten (10) days of telephone notification, unless otherwise authorized by the court. It is the responsibility of party notifying the court of settlement or voluntary dismissal to notify the opposing party of the cancellation of any scheduled hearing.

B. If no entry is received within the time allowed, the court will prepare an entry for dismissal at the notifying party's cost.

## **RULE 28.00 DEFAULT DISMISSAL BY COURT.**

In all civil cases where a defendant has failed to answer or further plead within sixty (60) days after the service of summons, the court shall serve notice upon the plaintiff pursuant to Ohio Civil Rule 41 that the court will dismiss the case for want of prosecution unless good cause is shown. If the plaintiff fails to move the court for an order granting judgment by default pursuant to Ohio Civil Rule 55(A) within ten (10) days from the date of mailing the Rule 41 notice, the court shall dismiss the action for the want of prosecution.

## **RULE 29.00 DEFAULT JUDGMENT**

**All motions for default judgment shall be made in writing and clearly state the date upon which the complaint was filed, how service was perfected, proof of service and the answer date. All motions for default judgment shall also contain a list of all damages supported by documentary or other evidence. An evidentiary hearing may be required at the discretion of the judge or where an appearance has been made, or if clarification is required by the court. Parties shall be present at a proof of damages hearing unless otherwise excused by the court.**

## **RULE 30.00 TRIAL BRIEFS AND JURY INSTRUCTIONS**

**Trial briefs and jury instructions shall be filed with the court in all jury cases seven (7) days prior to trial and shall include the text of, and citations of authority for any instruction requested by counsel. If there is no compliance with this rule, the jury may be deemed waived. Trial Briefs are also required for non-jury cases when there is a substantial**



**conflict of views as to specific questions of law or when the judge so requests.**

**RULE 31.00 SERVICE BY PUBLICATION.**

In cases where there is a request for service by publication pursuant to Ohio Civil Rule 4.4, the clerk shall cause service of notice to be made by publication in a newspaper of general circulation in the county pursuant to Civ.R. 4.4. The clerk shall notify the publisher that the payment of the cost of the publication shall be the responsibility of the plaintiff. Payment arrangements shall be made directly by the plaintiff with the publisher without the court assessing the publication costs as costs of suit or without the requirement of an advanced deposit by the plaintiff to the court for payment of the publication costs. Nothing in this rule shall prevent a party from recovering the costs of publication as court costs.

**RULE 32.00 JUDGMENT ENTRIES - NOTICE TO PARTIES & COUNSEL.**

A. Within three (3) days of the journalization of any judgment entry or order, the Clerk of Court shall serve notice of the entry or order upon every party who is not in default for failure to appear in a manner provided in Ohio Civil Rule 5. In general, this will mean service via ordinary U.S. mail upon the party's attorney, or if the party is a pro se litigant, upon the party himself or herself.

B. A clerk shall make a notation in the case docket indicating that the required service has been made.

C. Once a clerk has served the notice of the entry and entered the appropriate notation in the docket, the notice shall be deemed to have been served. The failure of any party to receive such notice shall not affect the validity of the judgment or the running of the time for appeal.

D. The obligation to distinguish between interlocutory orders and final appealable orders rests with the parties and their counsel and not with the Clerk or deputy clerks of this court.

## **RULE 33.00 FORCIBLE ENTRY & DETAINER ACTIONS.**

A. Claims for forcible entry and detainer and claims for past-due rent and money damages must be filed as separate actions and shall be heard separately by the court.

B. In cases in which the court has issued a writ of restitution in actions in forcible entry and detainer, it shall be the responsibility of the plaintiff or his agents to provide for the actual move-out of the defendant from the residence premises, including the post move-out storage of any personal property of the defendant. The bailiff's office shall schedule the move-out and shall be in attendance at the time of the execution of the writ of restitution, but shall not make advance arrangements for movers or conduct the move-out. Nothing in this rule shall prevent a party from recovering the costs of restitution of premises as damages in an appropriate case pursuant to law.

C. Dismissals by telephone will be allowed pursuant to B.M.C. Rule 27.02.

## **RULE 34.00 TRUSTEESHIP**

A. In order to enter into a trusteeship pursuant to O.R.C. Section 2329.70, an applicant should be qualified by having received a demand for garnishment of personal earnings.

B. At the time of application, the applicant must reside in the jurisdiction of the court, and shall submit to the court a proper fifteen (15) day notice received from a creditor listed in his application within thirty (30) days prior to filing of a trusteeship application.

C. At the time of application, the debtor shall 1) pay the filing fee, and 2) present his or her last pay stub, and 3) make a payment equal to twenty-five percent (25% ) of the disposable earnings reflected in the debtor's last paycheck, and 4) disclose to the clerk his or her payday, and whether it is weekly, bi-weekly, semi-monthly or monthly, and 5) present a list of all creditors, with their names,

addresses, balance owed and account number. The court will not accept copies of bills in lieu of a list.

D. Within three (3) days of the debtor's receipt of a paycheck, the debtor shall appear and show his or her pay stub to a deputy clerk, as trustee, and make payment in accordance with O.R.C. Section 2329.70. With approval of the trustee, the debtor may make arrangements to provide produce his or her pay stub, and subsequent payment by depositing same in the mail. It will be the debtor's responsibility to insure that payments made through the postal service are received by the trustee. If the debtor wishes a return of the check stub and a cashier's receipt, a self-addressed, stamped envelope must be provided.

E. Failure to make regular payments as set forth above will be cause for termination of the trusteeship.

F. The court shall cause notice to be forwarded to each creditor by regular mail with a request to verify the account and elect to participate or not to participate in the trusteeship. Failure to elect within ten (10) days after receipt of notice shall cause the trustee to declare creditor a participant in the trusteeship under O.R.C. Section 2329.71. The election to participate shall constitute a waiver of all interest, penalties, and late charges as may be provided in the security agreement, or any other indebtedness.

G. If the debtor desires to make payments to creditors out of exempt pay, such payments may be made as follows:

1. Direct payment to any secured creditor (holder of mortgage on any property) of such amounts as desired, provided payment of the amount required has been made to the clerk, as trustee, but only if such creditor is not listed as a creditor in the schedule, or such creditor has refused to participate in the trusteeship.

2. Payment of each amount to the clerk for distribution to the creditors. In no event shall the debtor make any payment directly to

a listed creditor who is participating in proceeds of the trusteeship without

approval of the court.

H. Any payment made in violation of this rule shall be grounds for termination of the trusteeship and the clerk, on final distribution, shall omit the amount of such preferred creditor in calculating the distribution.

I. The clerk, as trustee, shall deduct two per cent (2%) of the amount collected as a poundage fee which shall be forwarded to the City of Bedford immediately prior to disbursement to the creditors.

J. In the event a debtor fails to make any scheduled payment within ten (10) days after the payment is due, the clerk shall forward a letter by ordinary mail to the debtor at the address listed by the debtor, requiring the debtor to appear at a date not less than five (5) days nor more than ten (10) days from the date of the letter to show cause why the trusteeship shall not be terminated. If the debtor appears, hearing may be had before a judge or magistrate. If the debtor fails to appear, the clerk shall forthwith prepare an entry terminating the trusteeship for cause.

K. The clerk shall not be required to make distribution to creditors more often than once every ninety (90) days except that the clerk shall disburse all funds, including a two per cent (2%) fee to the City of Bedford, within ten (10) days after termination of any trusteeship.

## **RULE 35.00 SPECIAL PROCEEDINGS CASE MANAGEMENT**

**The purpose of this rule is to establish, pursuant to Rule 5 of the Rules of Superintendence for the Court of Ohio, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. Examples of special proceedings would include default hearings, rent escrow, replevin, contempt hearings, garnishment hearings, and debtor's exams.**

Cases that have time limits established by the Ohio Revised Code or the Ohio Rules of Civil Procedure shall be set for hearings within those time limits. In

all other special proceedings, the case shall be set for hearing within a reasonable time at the court's discretion.

## SMALL CLAIMS DIVISION

- 36.00 Authority
- 37.00 Purpose
- 38.00 Jurisdiction
- 39.00 Pleadings
- 40.00 Trial
- 41.00 Corporation as a Party
- 42.00 Voluntary Conciliation for Recovery of Taxes

### **RULE 36.00 AUTHORITY**

The Small Claims Division of the Bedford Municipal Court is established and operated pursuant to Chapter 1925 of the Ohio Revised Code and the Rules of Court of the Bedford Municipal Court.

### **RULE 37.00 PURPOSE**

A. The purpose of the Small Claims Division is to allow the public to resolve minor money disputes quickly, inexpensively and fairly without requiring an attorney's involvement. However, nothing in these rules prohibits a small claims litigant from retaining counsel for representation in a small claims case. Except when represented by an attorney at law, a small claims action must be filed, presented and/or defended by the real party in interest.

B. Parties and/or counsel are reminded that the Small Claims Division of the Bedford Municipal Court is a court of monetary jurisdiction only. Complaints seeking the return of property, or an order requiring the defendant to perform certain act(s) must be filed in the General Civil Division of this court to obtain the relief requested.

### **RULE 38.00 JURISDICTION**

**A. The party filing the claim, i.e., the Plaintiff, must establish that the claim is properly within the territorial jurisdiction of the Bedford Municipal Court. Therefore, the defendant must maintain his or her residence or have his or**

**her place of business within the jurisdiction of this court. Alternatively, the transaction giving rise to the complaint must have occurred within the jurisdiction of this court.**

**B. The monetary jurisdiction of the Small Claims Division shall be as specified in Chapter 1925 of the Ohio Revised Code, subject to the provisions of the Ohio Consumer Sales Practices Act and Ohio Landlord Tenant Law.**

C. The Small Claims Division does not have subject matter jurisdiction to hear actions on any claim brought by an assignee or agent, except a claim to recover taxes that is filed by an authorized employee of a political subdivision or any authorized officer or employee of the state, as defined in O.R.C. Section 1925.02 or a claim filed by a person designated under O.R.C. Section 1925.18 to act as the representative of a prosecuting attorney.

## **RULE 39.00 PLEADINGS**

**A. The Clerk of Court's small claims division shall receive and/or assemble all relevant information to enable an unrepresented individual to file a pleading. A party wishing to file a small claims complaint shall appear at the clerk of court's office, complete the paperwork necessary for the preparation of the complaint, pay the required costs. Upon payment of the required costs, the small claims case shall be scheduled for hearing at the court's convenience. All pleadings will be construed to accomplish substantial justice.**

B. No defendant is required to file an answer or statement of defense. However, should the defendant, after being duly served, fail to appear for the hearing, a default judgment may be entered against said defendant. Failure of the plaintiff to appear for hearing may result in the dismissal of the action.

C. Dismissals by telephone will be allowed in accordance with B.M.C. Rule 27.02.

## **RULE 39.01 CONTINUANCES**

Any requests for continuances shall be filed in accordance with B.M.C. Rule 8.00. A request for continuance shall contain:

1. the case caption and case number;
2. the reason for the request;
3. the date and time the case is currently scheduled for trial;
4. a service clause indicating that the other parties to the case have been notified of the request and date of notification and the method by which notification has been made.

Any continuances requested which are not in compliance with the rules of this court may be summarily denied.

## **RULE 39.02 COUNTERCLAIMS/CROSS-CLAIMS/THIRD PARTY COMPLAINTS**

All counterclaims, cross-claims and third-party complaints shall be filed with the clerk of court's office and served upon the opposing party(s) at least seven (7) calendar days, exclusive of the day of trial, prior to the originally scheduled trial date. If the case has been continued to allow for service, the new trial date becomes the originally scheduled trial date for purposes of this provision. The granting of a motion for continuance shall not automatically extend the time for filing a counterclaim, cross-claim or third-party complaint. Untimely filed pleadings shall be stricken from the file. All counterclaims, cross-claims or third-party pleadings filed in excess of the monetary jurisdiction of the small claims division shall be accompanied by a motion to transfer pursuant to B.M.C. Rule 39.03.

## **RULE 39.03 MOTIONS TO TRANSFER TO THE GENERAL CIVIL DOCKET**

Unless waived by the court for good cause shown, a motion to transfer to the regular docket shall accompany all timely filed pleadings as indicated in B.M.C. Local Rule 39.02.

A. Upon filing of a motion and affidavit, as required by O.R.C. Section 1925.10 and, upon payments of the required cost, a small claims action may be transferred to the regular docket. No transfer will be considered filed until the filing costs



are paid. A motion to transfer shall be filed at least seven (7) days prior to the originally scheduled trial date, exclusive of the trial date.

B. An untimely motion to transfer shall be stricken from the file. A jury demand shall not be allowed in a case filed in the small claims division unless accompanied by a proper and timely motion to transfer to the general civil docket. The movant must be in compliance with the local rules regarding jury demands and all required fees and deposits must be paid.

C. Transfer of the case to the general civil docket shall be within the sound discretion of the trial court. Any party filing a motion to transfer, which is later determined by the court to be without substantial grounds, may be sanctioned by the court, including, but not limited to the dismissal of that party's claim, and an award of reasonable attorney's fees to the party against whom the motion to transfer was filed.

## **RULE 40.00 TRIAL**

A. The trial of a small claims case shall be conducted by the magistrate who shall place all parties planning to offer evidence under oath and, thereafter, allow the plaintiff and defendant to state their cases. The plaintiff and defendant may subpoena and call witnesses if they so desire. Small claims hearings shall be conducted in such a manner as to be consistent with the intent of O.R.C. Chapter 1925.

B. Once the magistrate has conducted the trial or hearing he or she shall file a magistrate's decision. Findings of fact and conclusions of law need only be included in the decision if requested by a party. Any party may, within fourteen (14) days of the filing of a magistrate's decision, file objections in accordance with Rule 53 of the Ohio Rules of Civil Procedure and B.M.C. Rule 3.05.

## **RULE 41.00 CORPORATION AS A PARTY**

**A. Pursuant to O.R.C. Section 1925.17, a corporation may file, present or defend a small claims action, by and through a bona fide officer or salaried employee of the corporation. However, an officer or employee of the corporation may not perform any acts of advocacy, which may only be accomplished by an attorney. The failure of a corporation to obtain counsel prior to the scheduled hearing date may not be considered by the court as grounds for a continuance on the date scheduled for hearing.**

B. A bona fide officer or salaried employee of a corporation may request a continuance on behalf of the corporation.

## **RULE 42.00 VOLUNTARY CONCILIATION FOR TAX RECOVERY CASES**

Pursuant to O.R.C. 1925.03, there shall be voluntary conciliation for the recovery of taxes in the small claims division of the Bedford Municipal Court.

A. It is the policy of this court to encourage parties involved in an action seeking the recovery of taxes to resolve their tax disputes through voluntary conciliation. On the date of the hearing scheduled before the small claims division, and immediately prior to the time scheduled for said hearing, the duly authorized employee or agent of the political subdivision seeking recovery of said taxes shall make himself or herself available to the defendant for conciliation.

B. The parties are encouraged to discuss the dispute, in an attempt to reach an amicable resolution in a non-confrontational manner. In the event that conciliation is unsuccessful, trial shall proceed immediately as scheduled.

C. This rule shall be read so as to specifically permit the judge or magistrate acting as conciliator to preside over the small claims hearing conducted in the event conciliation is unsuccessful.

## RENT ESCROW RULES

- 43.00 Rules of Court
- 44.00 Procedure
- 45.00 Pleadings
- 46.00 Contested Hearings

### **RULE 43.00 RENT ESCROW RULES OF COURT**

These rent escrow rules of court are established and operated pursuant to Chapter 5321 of the Ohio Revised Code and the Bedford Municipal Court Local Rules. A magistrate or judge shall hear and decide those cases that cannot be settled by agreement.

#### **RULE 43.01 PURPOSES OF RENT ESCROW**

**The purpose of a rent escrow proceeding is to allow the public to resolve minor landlord-tenant disputes quickly, inexpensively and fairly without requiring the involvement of an attorney. Rent escrow proceedings involve situations where the landlord has failed to maintain the property as required by the O.R.C. 5321.04.**

## **RULE 44.00 PROCEDURE**

**A tenant who wishes to file a rent escrow proceedings must appear before the clerk of court's office to complete an application, and pay the required costs. The tenant must meet the following requirements:**

1. the tenant must live within the jurisdiction of the court;
2. the tenant must be current in her or her rent;
3. the tenant must bring the current address of the landlord/or agent;
4. the tenant must have served landlord with a 30-day notice to make repairs pursuant to O.R.C. 5321.04;
5. the landlord must have failed to make substantial repairs to the conditions detailed in the 30-day notice.

Service of the rent escrow proceeding shall be by certified mail by the clerk of courts. The clerk shall have the tenant sign a request for regular mail service in the event of failure of certified mail service.

## **RULE 44.01 FILING FEES**

**Court costs of 1% of the amount deposited shall be assessed at the termination of the rent escrow proceeding.**

## **RULE 45.00 PLEADINGS**

**A. A complaint to release the total rent deposited may be filed by the landlord at any time after the tenant's application for rent escrow has been filed. Service to the tenant shall be by regular mail.**

**B. Answers and counterclaims may be filed by the tenant after the landlord has filed a complaint requesting total release of the rent escrow. The answer and/or counterclaim shall be heard at the time of the trial.**

C. At any time during the pendency of a rent escrow, either party may file a motion for the partial release of rent deposited. If no hearing or trial date has

been set, the clerk shall set a hearing date. If the matter has been set for an oral hearing or trial, the clerk of courts shall consolidate the oral hearing for the partial release of rent with the pending hearing or trial.

#### **RULE 46.00 CONTESTED HEARINGS**

**Contested rent escrow hearings shall be conducted before the judge or a magistrate. A trial shall be scheduled at the court's convenience, but in no event later than sixty (60) days from the date of filing. The procedure is informal and there shall be no record taken unless requested prior to trial. All magistrate proceedings shall be conducted in accordance with Civ.R. 53. Witnesses and exhibits, if any, are necessary for this hearing.**

The rules governing the Bedford Municipal Court are hereby adopted on this 1st day of \_\_\_\_\_, 2000, shall be effective from and after \_\_\_\_\_, and shall supersede and replace any and all prior Local Rules of the Bedford Municipal Court.

**IT IS SO ORDERED.**

JUDGE PETER J. JUNKIN

**BEDFORD MUNICIPAL COURT**

**LOCAL RULES**

**APPENDIX A**

**- CIVIL -**

**COURT COSTS**

**BEDFORD MUNICIPAL COURT**

**LOCAL RULES**

**APPENDIX B**

**- CRIMINAL -**

**COURT COSTS**



**BEDFORD MUNICIPAL COURT**

**LOCAL RULES**

**APPENDIX C**

**- TRAFFIC AND CRIMINAL WAIVER -**

**COSTS**